



DECISION TO STRIKE OUT

Case no. CH/00/4995

Avdo BELAN

against

**BOSNIA AND HERZEGOVINA,
THE FEDERATION OF BOSNIA AND HERZEGOVINA
and
THE REPUBLIKA SRPSKA**

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 2 April 2003 with the following members present:

Ms. Michèle PICARD, President
Mr. Miodrag PAJIĆ, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Hasan BALIĆ
Mr. Rona AYBAY
Mr. Zelimir JUKA
Mr. Andrew GROTRIAN

Mr. Ulrich GARMS, Registrar
Ms. Olga KAPIĆ, Deputy Registrar
Ms. Antonia DE MEO, Deputy Registrar

Having considered the aforementioned application introduced pursuant to Article VIII(1) of the Human Rights Agreement ("the Agreement") set out in Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina;

Adopts the following decision pursuant to Article VIII(3)(c) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I. INTRODUCTION

1. The applicant complains that the respondent Parties did not permit him to repossess his pre-war apartment located at Trg William Shakespeare no. 17, residential area of Dobrinja IV, the Republika Srpska.

2. On 18 May 1998, the applicant submitted a request for reinstatement into possession of his pre-war apartment to the Commission for Property Claim of Refugees and Displaced Persons ("CRPC"). On 25 July 2000, the CRPC issued a decision confirming the applicant's occupancy right over the apartment in question. The applicant also submitted a request for the repossession of the apartment to the Administration for Housing Affairs of Canton Sarajevo, which rejected his request on the grounds of incompetence of the authority, by a conclusion of 21 September 1998. On 20 May 1999, the applicant submitted a request for repossession of his apartment to the Ministry of Refugees and Displaced Persons of the Republika Srpska, Department Ilidža (the "Ministry"). On 25 August 2000, the Ministry issued a decision, confirming the applicant's right to regain possession of his pre-war apartment.

II. PROCEEDINGS BEFORE THE CHAMBER

3. The application was introduced on 29 May 2000.

4. On 4 October 2000, the Chamber transmitted the application to the Republika Srpska for observations on the admissibility and merits under Article 6 of the European Convention on Human Rights (the "Convention") and Article 1 of Protocol No. 1 to the Convention.

5. On 19 June 2001, the Republika Srpska submitted its observations, which were transmitted to the applicant.

6. On 19 February 2002, the applicant confirmed that he entered into possession of his pre-war apartment. The applicant noted that he would like to maintain his claim for compensation.

III. OPINION OF THE CHAMBER

7. In accordance with Article VIII(3) of the Agreement, "the Chamber may decide at any point in its proceedings to suspend consideration of, reject or strike out, an application on the ground that ... (c) for any other reason established by the Chamber, it is no longer justified to continue the examination of the application; provided that such a result is consistent with the objective of respect for human rights."

8. The Chamber notes that the applicant lodged his application with a view to regaining possession of his apartment, and while the case was still pending before the Chamber, he regained such possession. The Chamber further notes that although the applicant has been reinstated, he understandably ask the Chamber to find a violation of his rights protected by the Agreement due to the time that elapsed between his request for reinstatement into possession of his pre-war apartment and the actual repossession. He also ask the Chamber to order the respondent Parties to pay compensation to him in recognition of the damage, both pecuniary and non-pecuniary, suffered by him during the course of that time.

9. The Chamber recalls that under Article VIII(2)(e) of the Agreement, "the Chamber shall endeavour to give particular priority to allegations of especially severe or systematic violations and those founded on alleged discrimination on prohibited grounds". As the Chamber has explained in the case of *Vujičić v. the Federation of Bosnia and Herzegovina* (case no. CH/99/2198, decision to strike out of 10 October 2002, Decisions July—December 2002), there are presently thousands of undecided applications pending before the Chamber, and this number is growing month by month. Moreover, significant progress in the return and property law implementation process in Bosnia and Herzegovina has occurred (*id.* at paragraphs 15-16).

10. Taking into account that the applicant has been reinstated into possession of his apartment, the Chamber considers that the ongoing alleged human rights violation have been brought to an end and the main issue of the application has been resolved. The Chamber recognises that valid reasons may underlie the applicant's request to nonetheless maintain his claim for compensation. However, in the light of the considerations discussed above, the Chamber finds that "it is no longer justified to continue the examination of the application" within the meaning of Article VIII(3)(c) of the Agreement. The Chamber moreover finds that this result is "consistent with the objective of respect for human rights", as this "objective" must be understood to embrace not only the individual applicant's human rights, but also the Chamber's more general mandate to assist the Parties in securing to all persons within their jurisdiction the highest level of internationally recognised human rights (Articles I and II of the Agreement).

11. The Chamber, therefore, decides to strike out the application, pursuant to Article VIII(3)(c) of the Agreement.

IV. CONCLUSION

12. For these reasons, the Chamber, unanimously,

STRIKES OUT THE APPLICATION.

(signed)
Ulrich GARMS
Registrar of the Chamber

(signed)
Michèle PICARD
President of the First Panel